

FISCAL NOTE
HB 2516 - SB 2636

February 25, 2004

SUMMARY OF BILL: Creates the Workers' Compensation Commission, which replaces the current system that provides for judicial determination of claims in the absence of agreement through a mediation process conducted by the Department of Labor and Workforce Development and:

1. Provides that the commission shall consist of three members appointed by the Governor for terms of six years who shall devote their entire time to the duties of the commission and shall administer the program. Each member shall receive a salary as a state employee and shall be paid in the same manner as other state employees. A person appointed as a special member of the commission shall be entitled to receive per diem not to exceed \$100 per day.
2. Authorizes the Workers' Compensation Commission to:
 - promulgate rules and regulations;
 - appoint and fix the compensation of temporary technical assistants and medical and legal advisers and to appoint and to fix the compensation of clerical assistants and other officers and employees;
 - make expenditures, including those for personal services, rent, books, periodicals, office equipment, supplies, printing and binding.
 - appoint as many persons as may be necessary to be administrative law judges and in addition to appoint examiners, rate experts, investigators, medical examiners, clerks, and other employees.
 - publish annually, information pertaining to the distribution of workers' compensation premiums, losses, expenses and net income to be compiled from reports required to be filed with the Commissioner Of Commerce and Insurance, pursuant to Title 56, or any similar information required to be filed regarding workers' compensation insurance. Requires the commission to publish in that same annual report information regarding aggregate workers' compensation benefit distribution to claimants, medical providers, and attorneys if that specific information or similar information becomes available from revised or additional reporting requirements that may be required by the Commissioner of Insurance.
3. Provides it is the duty of an administrative law judge to hear and determine claims for compensation, to conduct hearings and investigations, and to make such orders, decisions, and determinations as may be required by any rule or order.
4. Attaches the commission to the Department of Labor and Workforce Development for administrative matters relating to receipts, disbursements, expense accounts, budget and other related items.
5. Authorizes the commission to establish and impose reasonable fees to recover the cost of preparation of various materials distributed by the board. Funds derived from fees shall be deposited in the workers' compensation fund to be used to defray expenses incurred in preparation and distribution of materials. Does not authorize the assessment of fees to defray expenses of proceedings before administrative law judges and the review board.
6. Establishes a general fund reserve to be allocated by the General Appropriation Act, which shall be known as the Workers' Compensation Fund. Moneys from the fund may be expended to fund activities, and all revenues deposited in this reserve shall remain in the reserve until expended, and shall not revert on any June 30.

7. Outlines how the commission will order a hearing; provides the claimant and other interested parties to be given 10 days notice of the hearing served personally or by registered mail. Requires the hearing to be held in the county where the accident occurred, unless otherwise agreed to by the parties or directed by the commission. Provides that all statements of the award or denial of a claim, findings of fact and other matters, shall be filed with the commission, accompanied by the record of proceeding, and that a copy of the award or the denial of a claim shall immediately be sent to the parties or their attorneys.
8. Establishes civil penalties for persons in contempt of the review board, not to exceed \$10,000. Provides that a compensation order or award shall become final unless a party to the dispute seeks judicial review within 30 days.
9. Makes judicial review available in accordance with TCA 4-5-322, if a party is dissatisfied or aggrieved by the order of the review board.
10. Subjects attorney's fees for services to employees to the approval of the commissioner or commission if such fees exceed 20% of the amount, or ten thousand dollars of the recovery or award to be paid to the employee.
11. Require the commission to order a hearing after the completion of the benefit review conference process upon application of any interested party, or on its own motion. Allows that the full commission may remand to a single member of the commission or an administrative law judge, any case before the full commission for the purpose of taking additional evidence.
12. Authorizes the Commissioner of Labor and Workforce Development to develop a statistical data form for collecting data relevant to assessing the workers' compensation system and to seek comment from the Advisory Council on Workers' Compensation and the Administrative Office of the Courts.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures - Net Impact - \$4,712,735 Recurring
\$230,000 One-Time**

**Increase State Revenues - \$500,000
Decrease State Revenues - Not Significant**

**Decrease Local Govt. Expenditures - \$800,000
Decrease Local Govt. Revenues - Exceeds \$400,000**

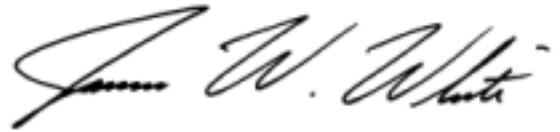
Estimate assumes:

- The new commission will consist of three members plus support staff, including salary, benefits, and related expenses including expenses of board members.
- An increase in state revenues from fees established by the commission to recover the cost of preparation of various informative materials and from civil penalties.
- A decrease in local government expenditures of \$800,000 by reducing attorneys' fees and court costs for workers' compensation cases brought against local governments.
- A decrease in state and local revenues from a decrease in court fees, taxes, and costs that would not be assessed and collected on workers' compensation cases under this bill.

- Pursuant to TCA 9-8-307(k), the state employees workers' compensation falls under the exclusive jurisdiction of the Tennessee Claims commission, which is exempt from the Department of Labor and Workforce Development reporting requirements and programs. This bill therefore has no impact on the states' workers' compensation program or the Claims Award fund.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized "J" and "W".

James W. White, Executive Director